

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE:

Hearing Date: February 7, 2019  
Time: 9:30am

Christopher T George,

Ch. 13 Case No.: 18-12824

Debtors

**NOTICE OF MOTION FOR TURNOVER, VIOLATION OF THE AUTOMATIC  
STAY AND DAMAGES PURSUANT TO 11 USC §362**

PLEASE TAKE NOTICE that the above-captioned Debtor, by and through his undersigned attorney, William Waldner, Esq., shall move this court at the time and place stated below for the relief described below:

JUDGE: Hon. Cecelia Morris

HEARING DATE AND TIME: 2/17/2019 at 9:30am

PLACE: United States Bankruptcy Court  
1 Bowling Green, room 617  
New York, New York 10004

RELIEF REQUESTED: An Order pursuant to 11 USC 362, violation of the automatic stay and request for sanctions

BASIS FOR RELIEF REQUESTED: Sufficient Cause.

PLEASE TAKE FURTHER NOTICE that objections to the above-stated relief, if any, must be made in writing and must be served and received by the undersigned at the below address, and filed with the clerk of the Court, with a copy to chambers of the Honorable Cecilia Morris, no later than three (7) days prior to the above-stated Hearing date.

Dated: December 20, 2018  
New York, New York

/s/ William Waldner  
William Waldner, Esq.  
Attorney for the Debtor  
469 7<sup>th</sup> Avenue  
7<sup>th</sup> Floor  
New York, New York 10018  
212-244-2882

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Hearing Date: February 7, 2019  
Time: 9:30am

Christopher T George,

Ch. 13 Case No.: 18-12824

Debtors

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**MOTION FOR TURNOVER, VIOLATION OF THE AUTOMATIC STAY AND  
DAMAGES PURSUANT TO 11 USC §362**

The above-captioned Debtor, by his attorney, William Waldner, Esq., hereby moves this Court, pursuant to 11 USC § 362, for an Order instructing NYS Child Support Processing Center (the “Creditor”) to return money garnished from Christopher George (the “Debtor”) since this case was filed, to stop further garnishments to award legal fees.

1. I am an attorney duly admitted to practice in the State of New York and in the Southern District of New York and I submit this affirmation under penalty of perjury. I am fully familiar with the facts and circumstances surrounding this case.

**JURISDICTION/CORE PROCEEDING**

2. The Court has jurisdiction to consider the claims of the Debtor for turnover, violation of the automatic stay and damages related to contempt pursuant to 28 USC § 1334 and § 157. This is a core proceeding as defined in 28 USC § 157(b)(2)(A), (B), (C), (E) and (G).

**BACKGROUND AND FACTS**

1. The Debtor filed a Petition pursuant to Chapter 13 of the United States Bankruptcy Code on September 19, 2019(the “Chapter 13 case”).

2. The Creditor has been garnishing the Debtor's wages since the Chapter 13 case has started.

3. 11 USC section 352(a)(2) states that "a petition filed under section 301, 302, or 303 of this title...operates as a stay, applicable to all entities, of...the enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the case under this title"

4. By garnishing the Debtor's wages the creditor has been in direct violation of 11 USC section 362.

5. Based upon the affirmation of William Waldner (Exhibit C) Debtor request turnover of the garnished wages, the termination of collection activities against the Debtor by the Creditor, the award of legal fees against the Creditor and any and all relief the court will grant.

### **CONCLUSION**

WHEREFORE, the Owner respectfully requests the entry of an Order: (1) demanding that the Creditor turn over money that has been garnished from the Debtor since this case has been filed; (ii) awarding attorney's fees and damages against the Creditor and (iii) granting such further relief as this Court deems just and proper.

Dated:  
December 20, 2018

/s/ William Waldner  
William W. Waldner, Esq.  
469 7<sup>th</sup> Avenue  
7<sup>th</sup> Floor  
New York, New York 10018

**EXHIBIT A**

NYS Child Support Processing Center  
PO Box 15038  
Albany, NY 12212

Date: 09/27/2018

WILLIAM W WALDNER

469 SEVENTH AVE 7TH FL  
NEW YORK NY 10018  
US

Dear Remitter:

Thank you for your recent correspondence to the NYS Child Support Processing Center. However, based on the information your office provided to us, we are unable to identify an active New York State child support case. No further action can be taken in this matter unless you can provide one or more of the following:

NEW YORK STATE CHILD SUPPORT CASE NUMBER  
SOCIAL SECURITY NUMBER (DIFFERENT THAN ONE PROVIDED)

If you cannot provide any of the above information, please do not return this notice. If you do have additional information, please return the notice to us with the additional information for further processing.

Thank you,

New York State Child Support Processing Center

Enc:

## LAW OFFICE OF WILLIAM WALDNER

469 Seventh Avenue  
SEVENTH FLOOR  
NEW YORK, NY 10018  
TEL: 212.244.2882  
FAX: 212.999.6694

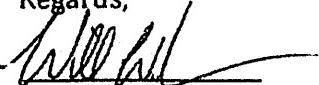
NY STATE AND FEDERAL COURTS

INFO@MIDTOWNBANKRUPTCY.COM  
WWW.MIDTOWNBANKRUPTCY.COM

October 9, 2018

Re: Christopher T George: 18-12824

Please be advised that my client Christopher George is the payor in NYS Child Support Case OM1.

Regards,  
  
William Waldner, Esq.

**EXHIBIT B**

Employee Pay Stub - SAP ERP						
Personal Information		Pay Period Details				
Name: Christopher T. George				ID: 9898		
Pay Period	11/26/2018-12/02/2018			Net Pay: 928.21		
Period No.	49/2018					
Payroll Area	07					
Check Date	12/07/2018					
				To view your remaining quota balances, please access the View My Paid Time Off link on D Tools HR (Quick Link).		
Earnings	Rate	Hours	Current	Year-To-Date		
Director Fee				80.00		
Regular	69.3800	32.00	2,220.16	99,138.56		
Overtime	104.0700	1.00	104.07	24,011.29		
Holiday 50%				1,889.16		
Short Turn A				416.28		
Vacation D	2.7763	8.00	22.21			
Vacation D	4.1700	1.00	4.17			
Vacation D			15.20			
Vacation D	2.7775	24.00	66.66	5,497.41		
Meal Penal			380.00	13,149.00		
8th/10th Hour W				204.00		
TOTAL EARNINGS			2,812.47	144,385.70		
TOTAL HOURS WORKED		33.00				
Type	Amount	Bank#	Acct Type or Chk#			
DIRECT DEP	928.21	1669	CHECKING			
DISCLAIMER: THIS PAYSTUB IS FOR INFORMATIONAL PURPOSES ONLY. IT DOES NOT REPLACE YOUR PAYSLIP OR PAY STATEMENT. PLEASE REFER TO YOUR PAYSLIP FOR A DETAILED LIST OF ALL PAY ELEMENTS AND DEDUCTIONS.						
UPDATING DATA AND NETWORK LOGON. THIS FOLDER IS UP TO DATE. CONNECTED TO MICROSOFT EXPLORER.						

SEND/RECEIVE

UPDATING DATA AND NETWORK LOGON. THIS FOLDER IS UP TO DATE.

CONNECTED TO MICROSOFT EXPLORER.

11:22 PM

12/4/2018

**EXHIBIT C**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X

**Christopher T. George**

**Chapter 13**

**Case No.: 18-12824**

**Debtors.**

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**AFFIRMATION OF WILLIAM WALDNER IN SUPPORT OF  
MOTION FOR VIOLATION OF THE AUTOMATIC STAY AND REQUEST FOR  
SANCTIONS**

I, William Waldner declare and state as follows:

1. On September 19, 2019 the Debtor filed for Chapter 13 Bankruptcy. The Child Support Unit was listed in the Debtor's Bankruptcy petition.
2. The Debtor owed approximately \$12,000 in arrears for his domestic support obligation.
3. On or about October 5, 2018 I received a letter in the mail from the NYS Child Support processing center asking for the Debtor's child Support case number. On October 9<sup>th</sup>, 2018 I sent a letter back to The NYS Child Support Processing Center with the Debtor's NYS Child Support Case Number. (EXHIBIT A)
4. Prior to that date my office has not sent correspondence to the NYC Child Support Processing Center regarding the Debtor's case. I presume they received the court generated notice regarding the Debtor's meeting of creditors.
5. The Debtor has been continually garnished by the NYS Child Support Processing Center and those garnishments have not stopped. (EXHIBIT B)
6. On November, 20, 2018 the Debtor and myself conferred called the NYS Child Support processing center at around 12:16pm. First we spoke with one female who

asserted that there was not a fax number for the NYS Child Support Processing Center. Next we spoke with a supervisor named Janet who told us that she would forward the Bankruptcy case information to the appropriate office.

7. It has been a month since the call to the NYS Child Support Processing Center and the Debtor is still being garnished.

I declare under penalty of perjury that the foregoing statement is true and correct.

Dated: December 20, 2018

/s/ William Waldner  
William Waldner